

**BOARD OF SELECTMEN'S MEETING**  
**April 22, 2010 6:00PM**

**Quorum noted**

**6:00 PM:** Meeting called to order by Chairwoman O'Donoghue.

**Roll Call:** All present.

**Executive Session**

Motion by Mr. Fernald, seconded by Mr. McPherson, to enter into an executive session as allowed by 1 MRSA 405.6 E "Consultations between a body...and its' attorney concerning...pending...litigation..."

**VOTE**

**4-0**

**Chair concurs**

**6:43 PM** Out of Executive Session.

**Pledge of Allegiance recited**

**Moment of Silence observed**

**Approval of Minutes of Previous Meeting(s)**

**6:45 PM** Motion by Mr. Fernald, seconded by Mr. Moynahan, to approve the minutes of April 8, 2010, as amended.

**VOTE**

**4-0**

**Chair concurs**

**Public Comment:**

**6:46 PM** There was no public comment.

**Department Head/Committee Reports**

**6:47 PM** The Chair said that Jim Tessier was here from the Solid Waste Committee and invited him to speak.

Mr. Tessier discussed his handout for Eliot trash volumes, saying that, overall, they were down 40% over the past 10 years ending in 2009. He said that they have to pay a tipping fee at the landfill to get rid of MSW (regular bagged trash) of \$74.15/ton and trucking of \$22.05/ton for a total of \$96.20/ton. He added that, looking at the 2009 volume of 996 tons of MSW times the disposal fees, the Town paid over \$95,000 just to throw away their trash last year. He also added that, if one adds the demo fees in there, the Town is spending almost \$130,000 a year to get rid of the trash. He discussed recycling materials, that the total volume had come down quite a bit in 2001/02, increased for several years, and then started coming down again. He said that the transfer station generated \$40,000 in 2000 from recycling and it went up to \$120,000 by 2007, and then fell to \$77,000 in 2009 because the price dropped significantly in the market during 2008/2009. He added that those markets are starting to come back and income is increasing. Mr. Tessier discussed ways their committee felt they could improve recycling and reduce trash. He said that they could set up some educational programs but that it is costly, takes time to be effective and, quite often, doesn't reach the people they need to reach. He said that they could also improve recycling enforcement out at the transfer station, which could include training employees to consistently monitor bagged trash content and some type of corrective action, such as the loss of privilege to use the transfer station if non-compliant. Mr. Tessier discussed the idea of implementing a program called Save Money and Reduce Trash (SMART), which is also referred to as a "Pay to Throw" program and charges each resident a small fee to dispose of their trash. He added that the advantage is that it has a very quick impact, as people will not want to spend more than they have to so they end up doing a better job of recycling. He said that that reduces the Town cost to

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throw away the trash, generate more revenue from increased recycling and the small fees being charged for the trash bags. Mr. Tessier said that South Berwick implemented that program about a year ago and their MSW is done about 43%. He added that he is also on the board of the Northeast Recovery Association, which is a non-profit co-op that has been in existence for 29 years and includes communities throughout New England to help improve their recycling. He also discussed a company named WasteZero that helps communities implement these programs. Mr. Tessier said that they would like to generate some discussion because they, as a committee, feel that, if they continue to do what they are doing now, then they don't feel the Town needs a recycling committee anymore. He added that, if the Board wants to start making some additional changes to help reduce MSW expenses and reduce the cost to the Town, then there are some things his committee would like to do. He said that his committee was looking for direction from the Board.

**6:55 PM** Mr. Moynahan commented that the numbers don't lie and he thinks this is an approach they should look at.

Mr. Fernald said that he thinks this is good information and thinks they should move forward and look at some of those alternatives. He added that he realized some of that may not be a popular thing to institute immediately as people might say they pay for that through their taxes but there needs to be shown savings based on that. Mr. Fernald said that the key to all of this would be educating people so that they understand why the Town would do this and what it would save them.

Mr. Tessier said that his committee would lay out a schedule, implement a training program, begin education programs for residents and then, six months or a year out, implement a pay to throw program.

Ms. Place commented that anything they could do to reduce the costs to the Town is an excellent idea. She asked what the charges would be for the trash bags.

Mr. Tessier said that most communities have two different volume-size bags: the smaller bag might have a charge of \$.75 to \$1.00 and the larger bags \$1.50 to \$2.00. He added that they don't want to create a burden but to get people to recycle better.

Mr. McPherson asked where one would get the bags.

Mr. Tessier said that there are a number of companies that sell them, with towns picking a color and logo specific to the town and they can be sold at convenience stores but added that Eliot currently sells bags at the transfer station.

Ms. Shapleigh commented that she thought she heard Mr. Tessier say that the trash had been greatly reduced from 2002 to 2007 by about 40% and said that one gets to the point where one can only reduce so much. She discussed that the building out there had been built by volunteers with donated material. She suggested having a freebie or swap barn, as that would benefit everyone and people could donate to the barn instead of throwing good usable items in the trash. Ms. Shapleigh commented that there are many folks who feel they don't get a lot for their taxes, no street lights, no sewer, a lot of things they don't have in the rural area, everyone already has to buy transfer station bags and now there is discussion about having to spend more to buy the bags. She said that she would rather see more conservation out at the transfer station and reiterated that they could start with a give-away barn and volunteer help for the barn.

The Chair thanked Ms. Shapleigh for her input and said that that would be something the committee would be happy to consider. She added that it sounds like the Board is in favor of the committee continuing and pursuing some of the ideas discussed tonight and coming up with something for the Board to look at.

Mr. Fernald said to look into WasteZero to see if there would be any savings.

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**7:05 PM** Mr. McPherson said that the committee should keep going and bring back specific plans to the Board.

Mr. Moynahan volunteered to assist the committee with this.

**7:06 PM** Paul White, CEO, said that he had a Consent Agreement with the Fernald's for the Board to sign.

The Board signed the C.A. for the Fernald's at this time.

Mr. White said that he also had a C.A. for MB Tractor but that this has new language in it from the other attorney and asked if the Board had any issue with him getting that new language reviewed. He added that the only thing the other attorney is waiting for is the final cost for attorney fees.

The Chair said that the Board did not want to sign the C.A. until it was final.

Mr. White agreed and clarified that he could tell MB Tractor the Board would sign the C.A. at the next meeting.

The Board agreed.

**7:09 PM** Ms. Place said that she had met with Mr. Atwood concerning the Comcast contract last Wednesday. She added that they would look over the contract, generate questions/comments in preparation for the May 12 negotiating meeting.

**Old Business (Action List):**

**7:10 PM** A. Business Registration Ordinance – Process such as Public Hearing

The Chair said that the question was asked at the last meeting whether this ordinance proposal would go to Public Hearing or what the story would be. She said that this would not be on the June warrant but that the Board has to decide if they want this as a referendum in November. She thanked the Business Development Committee (BDC) for their work on this ordinance proposal and said they have given the Board what was asked for. The Chair said that they also had the question last meeting of whether other towns have this kind of ordinance and she asked the BDC what they had found.

Ms. Orr said that they had contacted area towns and found that Kittery, Ogunquit, Wells, York and South Berwick all have some form of an ordinance, a regulation, a rule. She added that they were stricter and stronger than the proposal before the Eliot Board. She said that she believes all but South Berwick require an annual fee and annual relicensing and the majority of the towns required an inspection prior to occupancy.

**7:13 PM** Mr. Murphy commented that, after looking closely at the proposed ordinance, he was bothered by what seemed the complete neglect in comparing what is being requested with what the Planning Board (PB) already does in giving approval of any initiating business or Home Occupation. He added that the PB puts applicants through all kinds of hoops and they have every opportunity to set up conditions of approval, which is the standard with any new business. He added that someone might come in and think this proposed ordinance completely controls what a business has to do and that is not the case at all. He suggested going back to see what the PB did and, perhaps, adding one more condition of approval that, having met PB approval, they then must go to the Town Clerk for a license form.

**7:15 PM** Mr. McMullen said that this proposal is probably one of the most business-friendly ordinances of all the towns around here. He added that the proposed fees are far less than any other town charges. He clarified that it is true that any real estate commercial business that applies to create residences or a commercial structure must go before the Eliot PB. He said that is where it stops. Using Lang's multi-use building as an example, he said that no individual goes before the PB who occupies a space inside that multi-use building, that it is only the building,

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itself, that goes before the PB. He added that that means better than 50% of the businesses in Town that are never scrutinized by the Town.

The Chair said that she wanted to hear what the Board had to say on this discussion but that they do have time and asked if the Board wanted this to come up in November for a vote by the Town.

Mr. Moynahan said that that was the direction when the Board started this over 1½ years ago and they are close, now. He added that the inspections are certainly bring to light things he had thought of and the PB, as well, but is this separate from that. He commented that maybe inspections are important and who would administer them.

Mr. McPherson asked who would enforce this, as the CEO already has plenty on his plate.

Mr. McMullen commented that he did not believe that was for the BDC to say.

Mr. McPherson also commented that it would cost money to enforce it and asked what businesses would be included – someone who has a continual yard sale.

Mr. McMullen said that he believed they were considering any business in business for profit across the board. He added that they were not including churches or non-profits. He reiterated that this would only include for-profit businesses and that over 50% of those businesses in Eliot go unrecognized by anyone for anything.

Mr. McPherson said that there are many people in Town, such as accountants, that do business out of their homes and asked if that type of business would need a license.

Mr. McMullen said yes.

The Chair reminded everyone that this came about because of the safety issue.

**7:21 PM**

Mr. Fernald asked Chief Muzeroll if he had issues with not knowing where hazardous materials were.

Chief Muzeroll said that, from an informational and response point-of-view, certainly in a perfect world, he would like to know what is in everyone's house and everyone's business. He added that he doesn't think that is possible. He explained that he could go to someone's business today on a requirement for licensing and everything looks good, then go tomorrow and everything is changed. He clarified that, from a fire safety point-of-view, they respond with a worst-case scenario in mind. He added that some of their worst headaches are not from businesses but from homes that have no businesses in them. Referring to the business side, he did not think it would be realistic to think there would not be, without further costs or additional manpower, that they can on a continuing basis inspect every place that would be listed, whether it had a license or not. In a point of good faith, he said that, if he was to go inspect a property, he would give the property owner a call to say he would be by the next morning, which isn't meant to say that businesses are trying to hide anything. He clarified that a lot of people do things just because they aren't educated and just need some guidelines. He added that he sees it as a logistical nightmare with the yearly inspections and educating people from the get-go makes more sense to him.

The Chair said that she was confused as she didn't see a word about inspections in this ordinance.

Ms. Orr said that she thought the confusion came from discussion of every other town having some level of inspection. She added that they originally received two different drafts from a Town attorney and were asked by the Board to review those drafts and blend them together. She said that they watered it down because this is the first time the Town has undertaken this and that most of the other towns

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in the area have had this in place since the '80's, so suspects they may have started out as a softer version and may have gotten stricter over the years. Ms. Orr said that they specifically talked about this issue and thought that, with a volunteer fire department and a CEO that is rather busy, to try to implement the annual inspections would be too much of an undertaking.

The Chair commented that this proposed ordinance does not talk about inspections at all and she believed that the whole basis for this whole thing was that it came from the police, as if there is a break-in to a place, they don't know who owns the building, if it is a leased business, and this would allow that information to be available in the event of an emergency.

Ms. Shapleigh said that, thirty years ago when she bought the building on Route 236, the police or fireman came around, they asked who the contact people were, and that was the end of it. She added that it sounds like the Board asked for this ordinance a year and a half ago from the BDC and she would like to know how many businesses they thought they would bring into Town doing that. Ms. Shapleigh commented that the BDC had not brought a lot of businesses into Town and the more the Town imposes regulations and the more hoops businesses have to jump through, the less is going to happen. She said that this does not make things easier and, in this economic environment, she doesn't think the Board should be planning anything new that might deter anyone from looking at the Town of Eliot as a place to bring their business.

Mr. McMullen commented that he thought this discussion was getting very far afield of what the original intent was for this ordinance. He added that everyone should keep in mind that this is the most business-friendly ordinance of all the surrounding towns. He added that it has the cheapest fees and, if businesses go to other towns, they would be subject to inspections and there is no inspection requirement in this ordinance before the Board, today. He commented that the reason they did this was for simplicity and friendliness to businesses...but for knowledge. He clarified that, in filling out a business application, they ask what one might have for hazardous materials on-site so that a copy could be made available to the Fire Chief. He added that the form also asks for the owner and co-owner and phone numbers in case there is an emergency, such as a fire or break-in or other problem. Mr. McMullen said that, right now, the police chief and fire chief have no way of contacting probably over 50% of the commercial owners on Route 236 and/or in Eliot. He reiterated that they were trying to create a very friendly situation that gives the Town's working people knowledge, as well as to the tax assessor so that she would have that knowledge of what businesses exist in Town, of which there are about 423. He said that this isn't trying to chase any businesses out but trying to make doing business in Town safer.

Mr. McPherson said that a couple of things needed to be cleared up. He said that the first time this was presented it was said that this would be revenue producing and he couldn't find anyone in the Kittery Town government that will say that they have this ordinance.

Ms. Orr clarified that Kittery does not call it an ordinance. She held up the Kittery application and explained that it is two pages that one has to fill out and mail to the town with various information prior to occupancy. She added that one must pay \$40 if you aren't making any changes plus a \$25 annual fee and, if one is making any changes to a facility, it is \$50 plus the \$25 annual fee. She explained that she believes this goes first to the town planner and she is the one who decides if an application needs to go to the PB or just do this application for approval.

Mr. McPherson asked if people like Mr. McMullen's dad, who sold picnic tables on his front lawn, or his father, who sold vegetables out of his garden, would fall under this ordinance.

Ms. Orr said that the Town has a Home Occupation Ordinance that has a threshold and she would imagine that if one met the threshold for the Home Occupation Ordinance that one would meet the threshold for this proposed ordinance.

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Mr. McPherson moved, second by Mr. Fernald, to table this item until the Board of Selectmen get further information.

The Chair asked for discussion.

**7:30 PM**

Mr. Moynahan said that he would ask for specific clarification of information needed so they could address it, outline it and move on. He added that, if they say that just more information is needed, then they will just keep going around in circles – the same questions would be asked and the same answers given. He asked, if there are specific questions or answers the Board was after, then they should clarify those now.

Mr. McPherson said that the suggestion was made by a fire chief to have a Knox box system, which provides the needed information and provides a key for emergency personnel and, for some reason, it never got any support.

Mr. White clarified that this proposed ordinance came before the Board last October, so it has not been a year and a half, and he was involved with talking to the Town attorney about this proposal. He commented that Kittery doesn't call this an ordinance and suggested Eliot not call it an ordinance, that Eliot might develop something like what Kittery has or be driven by the fire or police department. He said that he would be willing to work with the group to find out what other towns are doing. He reiterated that he worked with the Town attorney on this ordinance and he has seen no other towns with this ordinance. He added that this is the first time he has heard anything about other towns. Mr. White said that he would like to see what Mr. McMullen offered to show the Board and suggested that, maybe, this could just be a policy of the Board.

The Chair said that the Board had a motion and a second to table this until the Board has further information and called for a vote.

**VOTE**

**2 for-2 against**

**Chair voted against tabling it only  
because tabling this means it  
won't be brought up again**

The Chair agreed that the CEO should get copies of ordinances from other towns and report back to the Board with that information.

Mr. White agreed.

Mr. Muzeroll said that, if they were going to gather more information and it even vaguely involved the fire department, then he requested he be notified, as he didn't want someone else making decisions for his actions without his input.

The Chair agreed.

B. Job Review Form - ongoing

C. Police Contract - ongoing

D. Sewer Contract with Kittery - ongoing

E. Combining Town positions/outsourcing with surrounding towns – Mr. Fernald & Ms. O'Donoghue

The Chair said that she did find out that the Town of South Berwick is phasing out its planning department and, as of this morning, they were planning to go with SMRPC to find out what they can work out with them.

F. Firearms Ordinance – Mr. Fernald lead

Mr. Fernald said that this was ongoing.

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G. Harbor Master – Mr. Moynahan lead

Mr. Hirst said that he has sent the letter but has not heard back, yet.

H. Consent Agreement – Subcommittee – Mr. Moynahan, Ms. Place, Mr. Murphy

Mr. Moynahan said that he failed to give Mr. Murphy a copy of the current C.A.' and he would do that tonight before he left.

**New Business (Correspondence List):**

**7:38 PM**

**#1**

TO : Board of Selectmen  
FROM : Paul White, Code Enforcement Officer  
REF : Sewer Hookup request by Linda Ross

The Chair said that Ms. Ross has a failed septic system and would like to hook into the private sewer system on Greenwood Street. She added that Ms. Ross has been informed that the Board has to approve the allocation to be added to the sewer. She asked if this had gone to the Sewer Committee and if this was an appropriate item to pass to them.

Mr. Blanchette said that it was his understanding that, in the past, Board has said that they would pass on all requests to the Sewer Committee.

Mr. Murphy agreed and said that they had not seen this request nor taken it up.

The Chair asked that Mr. Blanchette make sure this was passed on.

Mr. Blanchette agreed.

**#2**

TO : Board of Selectmen  
FROM : Chris Pollard  
REF : Letter of Resignation from Planning Board

The Chair said that the Board received a letter that Mr. Pollard and his family have just moved into a new home in York and, therefore, is resigning from the Eliot PB.

Mr. Fernald moved, second by Mr. McPherson, to accept Mr. Pollard's resignation, with regrets.

**VOTE**

**4-0**

**Chair concurs**

The Chair agreed the acceptance was with regrets, as Mr. Pollard has served this town very well.

**7:40 PM**

**#3**

TO : Board of Selectmen  
FROM : Dennis Lentz  
REF : Request to be appointed to Planning Board as regular meeting

The Chair said that Mr. Lentz is currently an alternate member of the PB and has been asked to be moved up to the position of regular member with the absence of Mr. Pollard. She added that, while he hasn't been on the PB very long, he is the senior alternate member

Mr. Moynahan moved, second by Mr. Fernald, to appoint Dennis Lentz as a voting member to the Planning Board, his term to run to 2011.

**VOTE**

**4-0**

**Chair concurs**

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**#4** TO : Board of Selectmen  
FROM : Betsy O'Donoghue  
REF : Maine Dept. of Labor

The Chair discussed that this is regarding a recommendation form report from SafetyWorks and that the Maine Department of Labor is still pursuing this, with the Town having the potential of incurring very expensive fines. She asked where they were on this and how do they get this straightened out.

Mr. Muzeroll said that, for the last 18-20 months, his department has been dealing with a number of issues. He explained that they had requested a re-inspection through a different avenue to try to clean up or, at least, re-identify things that were confusing. He commented that he wasn't sure that accomplished anything except to cause more frustration for him and his department. He used the first item in the report as an example of what he was up against. He explained that the law says one thing (referenced in the right column). He said that the citation is about their respiratory protection program where it says "not all firefighters that are required to wear a respirator have a medical clearance on file at the station". He said that that was an issue they had had before, that they were deficient on who and how they were getting medical clearances and they accepted and understood that. Mr. Muzeroll said that it now says "please list the type of respirator that the employees have been medically cleared to wear." He clarified that his department agreed and they agreed, both verbally and through email, to update their respiratory protection program and they gave him a sample document for him to fill out, which he did, and they came back and said that wasn't right. He said that they have a document that is produced by the State of Maine, his department is following it and in compliance and, in this case, they are saying that it doesn't specifically state on a separate form that is part of the document what will be worn for a respirator when, in fact, the body of the document determines what they will wear. He commented that the State's document is deficient and his department gets fined for it. Mr. Muzeroll said that he has yet to get an answer from Mr. LaPlante as to what he wants to do about this. He said that his department went to great expense through Kittery Family Practice to make sure everyone had medical clearances and he asked if those results valid or not and he has not heard anything, yet. Regarding another issue, Mr. Muzeroll said that they are trying to institute 2009 modern-day requirements for apparatus that was purchased in 1981. He added that he believes it's kind of foolish to think he could bring something that is 30 years old into compliance with some sort of testing requirement that is only referenced in 2009 and newer. He clarified that there is no company out there that can test the particular truck. He said that he is not sure that his department is not being fairly looked at compared to the rest of the State. He added that he questioned where the authority comes from in the law and he believes his department is being over-scrutinized. He added that, unless he was missing something he was not aware of, it is his understanding that only one department is being required to do this test. He said that he was going to pay someone to produce a piece of testing paperwork and, then, they were going to test the truck. He added that there is some sort of requirement that isn't even out there that that truck could meet. He commented that it is a hairy edge as, if it doesn't pass, does that mean he pulls it off the road. Mr. Muzeroll asked what that would do to every other department in the State, if he does this testing – would they be in the same boat. He also discussed #8 that deals with blood born pathogen training. He said that they had found that they could provide training for people, either as a refresher or initial course, online through a program supplied by the State and they told him that program wasn't available because there is no one sitting there with them online answering questions if they have any. He commented that they were providing a program online but they want to fine him for using the program.

The Chair said that the requirement even says "If an on-line course is being used a qualified individual must review the EFD's written plan."

**7:50 PM** Mr. Muzeroll said that was part of the program and what Mr. Spinney does as a training officer. Mr. Muzeroll said that Mr. LaPlante, as well as the person who did the interim inspection, should have in their possession this week all the

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answers to all the items in the report, as well as more questions he has. He added that #2 could not go away until May 4, as their testing contractor is not available until that date. He said that he was totally frustrated and has taken a lot more time than it should.

The Chair said that she would like to know how the Board could help.

Mr. Muzeroll clarified that, at this point, there was nothing they could do to help. He said that everything that needs to be done needs to be done by him and his department. He added that the Board doesn't need to get involved unless they want to get involved. Mr. Muzeroll said that he and two other chiefs in southern Maine feel as though they have been singled out, so-to-speak, because they all have similar personalities, that Mr. LaPlante decided to have informational meetings throughout the State with all the fire chiefs explaining why they are doing these things. He questioned why, if they haven't done these things for a hundred years, why all of a sudden are they having workshops. He said that he believes it is because the person they have in place or the people doing the inspections are all of a sudden implementing or enforcing laws that have been out there forever but have not been enforced. He added that there was no advance warning that this would be taking place. Mr. Muzeroll commended Deputy Chief Spinney and Lt. Cullen for carrying on a lot of this and added that a lot of the records stuff fell on Mr. Spinney's shoulders that wasn't his fault.

The Chair commented that the Town all appreciates the work the Eliot Fire Department does.

Mr. Muzeroll replied that they were grateful for the support they had received and asked the Board not to think they were skirting the issues because, as the Board well knows, the firemen all work other jobs and there has been a lot involved in dealing with this.

The Chair reiterated that he should let the Board know if there was anything they could do.

Mr. Muzeroll said that he would and would get back to the Board when he received an answer from Mr. LaPlante.

#5

TO : Board of Selectmen  
FROM: Baran Place  
REF : Sewer Fees

The Chair said that they had a letter from Baran Place complaining about their sewer bill. She asked if this had been sent on to the Sewer Committee.

Mr. Blanchette said no, that it didn't really have anything to do with the Sewer Committee. He added that he believes they are concerned about the fixed costs.

The Chair said that they claim they are paying between 467% and 639% more than the two commercial accounts for sewer fees.

Mr. Blanchette agreed and said that was because they had more units. He clarified that it is the units' part, the fixed cost of \$50 per unit, he believes is their concern.

The Chair clarified that the residential units were surely not using as much water as the commercial units.

Mr. Blanchette agreed they were not.

Mr. Fernald asked Mr. Rankie if they had one meter.

Mr. Rankie said yes. He asked if he could speak.

The Board agreed.

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Mr. Rankie said that the second paragraph of the letter was what he thought was a very good analysis of what they were talking about and Mr. Blanchette is right on. He added that this is a very inequitable system. Mr. Rankie said that Baran Place is a 41-unit, HUD funded, elderly housing environment that has 43 residents and 3 clothes washers. He added that they use a fraction of the water that the other two "units" use, explaining that each unit is assessed \$50, with Eliot Commons assessed at 8 units and pays \$200/quarter just to be connected to the sewer system they own and Baran Place pays \$2,050/quarter. He clarified that, before they even wash their hands or flush their toilets, 43 Baran Place residents pay \$2,050/quarter. He said that Dunkin' Donuts pays \$50/quarter. Mr. Rankie said that consumption is pretty much the way the nation measures sewer user fees. He clarified that what Baran Place residents are putting into the system has got to be nowhere near what is put in by a restaurant but Baran Place is paying the lion's share of that fee and it is killing them. He discussed that the original engineer for Baran Place went bankrupt and a lot of corners were cut in the construction of the building – they are replacing 11-year-old roofs. He discussed that all their sewer is collected into a manhole, then grounded up and pumped to the collecting manhole in Eliot Commons and, from there, it comes down Bolt Hill Road. He said that they supposedly own 15% of the Eliot Commons sewer system, although they have no say in what happens to it and they have never realized any revenue from it when new people connect to it, so they have issues around that. He added that they asked HUD to raise the rent to cover replacing doors and roofs and a year and a half later HUD told them maybe \$40. Mr. Rankie said that the Baran Place residents really need some relief from the Board.

Mr. Fernald clarified that there was a reason he asked Mr. Rankie if he had only one meter. He asked Mr. Blanchette if there were other buildings or places in Eliot that have the same or similar situation.

Mr. Blanchette agreed that there was at least one that was similar where there was a multitude of buildings off of one meter or, in this case, they had a couple of meters with a 2½-inch line, which the water district doesn't measure by meter but just charge by the line when it is that big. He said that one of the things discussed by a previous Board, when Baran Place was just getting going, was how to assess betterment fees and the Board at that time chose to assess betterment fees differently. He explained that they got the records from another similar housing unit in York, he believed, looking at the water usage per unit, and, what the Board decided to do was, rather than charge a 41-unit betterment fee, they compared that information in terms of the average single-family household. He said that he has forgotten the exact ratio but believes it ended up that Baran Place paid 5 or 10 betterment fees. He added that it was substantially less based on water usage. He added that he thought there were a couple of things they could look at and one of those things would be water usage and how many units that would be to an average household.

Mr. Rankie commented that he did not know how one could compare Baran Place to an average household when there are 41 units and 43 people living there.

Mr. Blanchette clarified that he was saying to take the water usage and see how that breaks down into the number of units if those units were numbers of households.

Mr. Rankie said that, if they were looking at some kind of compensation because of the connection fee, as it were, they have been paying \$50/quarter per unit for 12 years, so he thinks they have probably hit that threshold. He added that the board of directors has agreed that that is done and they are certainly not looking for money back but they are saying to look ahead because consumption is the way to go. As a civil engineer, he suggested that an easy way to look at this was to add up everything that was being collected from that entire system and then dividing it by water usage and take away the fees. He asked how the assessment could allow Eliot Commons to only be assessed 8 units and Dunkin' Donuts 1 unit with the kind of consumption they have. He said that the assessment is very inequitable. Mr. Rankie said that they want to be able to provide for the people who live there and, as he stated in his letter, their preference is for an Eliot resident or family

**8:10 PM**

**BOARD OF SELECTMEN'S MEETING**  
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member to live there before any other person puts their name on the list. He said that the only other thing that costs them money in water usage is that they allow the foot care clinic (York Hospital nurse) to use their space once a week to provide elderly foot care. He emphasized that they really do need some relief.

Mr. Fernald said that he understood and that he believes that was what the Board was trying to do – to come up with some other way within the ordinance to do that.

Mr. Rankie commented that this is a bit of a different beast because the Town of Eliot doesn't have anything to do with this. He said that all of the service required for this force main, involved in the discharge, the Town has nothing to do with except pay the bill to Kittery. He commented that they have some issues with the owner of Eliot Commons billing Baran Place 15% to figure out what is wrong with the system but Eliot is just collecting a fee for water discharged into Kittery. Mr. Rankie said that he would somewhat submit, which he doesn't mean as a negative, that the residents of Eliot were making money off of Baran Place with the \$50 fee.

Mr. Murphy clarified that Baran Place does have Town water.

Mr. Rankie said yes, they have Kittery municipal water.

Mr. Blanchette said that each unit is assessed a \$50 fee plus a variable for everyone with one or two, which may not be metered. He added that the assessed fee is established, in part, by Eliot ordinance. He explained that the \$50 comes about because the bills are broken out into fixed costs and variable costs and water usage is strictly a variable cost, which helps to pay the bills that come in that are variable. He added that part of Kittery's bill is variable, part of it is fixed. He explained that the fixed costs pay Eliot's bill, which includes Kittery's bill, but Eliot has other bills beside that and they are all broken out into fixed versus variable.

Mr. Murphy clarified that they don't have different levels for customer fees.

Mr. Blanchette said that Eliot has only one level, that everyone basically pays the same fee. He added that, included in the \$50 fee is an amount of money to a reserve account for capital costs and so it is actually broken out into three different costs. Using the electric bill as an example, he said that there is a fixed cost, whether one uses any electricity or not, just to be connected to the system, then there is the variable cost – how much electricity one is using, and it is the same thing with most of the bills people pay. He said that the \$50 covers the fixed costs and the reserve account and the variable costs are the water usage. Mr. Blanchette said that that is broken down by ordinance and so they can't just go on a variable cost for the whole Town without changing the ordinance.

The Chair commented that the intent of the \$50 fee in the ordinance was probably geared toward a family unit and Baran Place units are single.

Mr. Blanchette agreed and said that that was why he suggested converting their water usage to the average household water usage to see how many units it makes. He explained that it may only make 10 units and then the Board could decide to charge them only those 10 units rather than 41 units.

Mr. Murphy asked if the Board could make that change.

Mr. Moynahan said that the Board looked at that when they were looking at rates and the Board does have the ability to alter sewer rates.

Mr. Blanchette commented that he thought they did but he hadn't looked at it with that in mind. He discussed that Kittery has a minimum usage threshold per quarter that he thinks is around 1,500 and Eliot might establish something similar as a minimum unit usage but these were things they could look into.

**BOARD OF SELECTMEN'S MEETING**  
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Mr. Rankie said that he wanted to thank the Board for so expeditiously having him in. He added that Mr. Higgins might be the one the Board wants to talk with as he has done a lot of the research work, working with Ms. Rawski, who has helped a great deal, as well.

Mr. Blanchette said that he would contact Mr. Higgins.

Ms. Shapleigh commented that the Town talks about affordable housing and then there are always these stumbling blocks. She added her support for doing something about this situation. She said that the Sewer Committee had gotten engineering figures for elderly housing and it is much less than a single household. She added that she does believe the Sewer Committee should be involved in this.

Mr. Rankie said that they are stricter than the average elderly housing because they provide three coin-operated washers and dryers and only with an approved special hardship can anyone have one in their unit.

The Chair thanked Mr. Rankie for bringing this to the Board's attention. She said that Mr. Fernald and someone from the Sewer Committee should work on this to get this resolved.

Mr. Blanchette said that he would contact Mr. Marchese tomorrow.

**8:20 PM**  
**#6**

TO : Board of Selectmen  
FROM : Attar Engineering, Inc.  
REF : Sawgrass Lane – Remick Farm Subdivision

The Chair asked Mr. Blanchette if they had any information on this regarding road standards, etc., and has Mr. Shapleigh gone over this. She said that they talked about elevation in one spot being super-elevated.

Mr. Blanchette said that this was just the engineer's documentation that the Board would keep, that they still have things to process.

The Chair clarified that it would probably come before the Board for acceptance as a Town road.

Mr. Blanchette agreed that it would at some point.

Mr. Moynahan said that the letter does say that "Sawgrass Lane has been constructed in accordance with the approved plans. Please note, however, that a portion of the road is super-elevated, not crowned..." and said that that indicates to him that the road was not built to the same plans so there should have been an alteration to the accepted plans, inspected at the time and not just done. He said that the river sheets over that road in spring all the time. He reiterated that that road was not built to the same standard that was approved and the letter clearly supports that. He commented that the buyer beware – the Town.

Mr. Fernald clarified that it has not been approved, yet, as he has not seen a letter from the Road Commissioner and the road must go through a winter before it can be approved.

Mr. Blanchette said that he believes the winter for the final coat was this immediate past winter.

The Chair said that they need to know more about this.

Mr. Blanchette said that this was only the start of the paperwork.

Mr. Hirst asked if the road construction bond had been released yet.

**BOARD OF SELECTMEN'S MEETING**  
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Mr. Blanchette clarified that it was not a bond but is a cash account (letter of credit from Kennebunk Savings) and the Town is holding approximately \$10,000.

Mr. Grant clarified that that is an irrevocable letter of credit.

Mr. Blanchette said that it was.

Mr. Grant commented that to correct anything that might be wrong with that road he would think would cost a whole lot more than \$10,000.

Mr. Moynahan agreed with Mr. Hirst and said that letter of credit amounts are much larger than this.

The Chair commented that the Town has been put on notice with this one.

Mr. Hirst asked if it would require a vote of the Board to release the \$10,000 line of credit. He said that, if the builder were to satisfactorily comply with the standards the Town asked him to comply with, the Board would then release the credit.

Mr. Blanchette said that the procedure, generally speaking, is that, as the road is constructed, portions of the letter of credit are released until the very end. He added that they keep a contingency. He added that, generally speaking, when they receive a letter that says the road has been built to Eliot road standards and the approved plans, etc., then the letter of credit can be released, but this letter does not say that.

Mr. Hirst commented that it sounds as though it was not built to those standards.

Mr. Fernald reiterated that that letter needs to come to the Board from the Eliot Road Commissioner, not the engineer.

The Board agreed.

**8:25 PM**  
**#7**

TO : Board of Selectmen  
FROM : Eliot Police Dept.  
REF : Direct Deposit

The Chair said that this is a request for Direct Deposit for payroll purposes. She added that Ms. Spinney said that it was possible but that she doesn't have that set up at the moment. She said that she believes there are other people in the office that would like Direct Deposit, as well.

Mr. Fernald said that this has been brought up over the years and asked if there was some type of cost or some type of problem associated with this.

Mr. Blanchette said that they wouldn't know until they got into it. He clarified that they are not 100% sure that the software they presently have would allow for it. He added that Ms. Spinney thinks it might but she has to do further research. Mr. Blanchette said that they would like the Board's okay to proceed with looking into it.

The Board agreed by consensus to do look into having Direct Deposit.

**8:28 PM**  
**#8**

TO : Board of Selectmen  
FROM : Maine Municipal Association  
REF : Risk Management Services

This was informational.

Mr. Murphy asked if the public could know what the MMA is doing for the Town.

**BOARD OF SELECTMEN'S MEETING**  
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The Chair said yes and said that, under the 2009 Property and Casualty Pool, Eliot received \$2,034 in dividends, waived \$475 in underwriting and provided \$95 in services.

**#9** TO : Board of Selectmen  
FROM : Maine Dept. of Agriculture, Food & Rural Resources  
REF : Pesticide Applicator License Required

The Chair discussed that individual homeowners often use pesticides and herbicides that they probably shouldn't, but if a town does it, they can be in serious trouble. She said that South Berwick was recently fined \$500 for some of the sprays they have used. The Chair asked Mr. Blanchette to make sure the Road Commissioner got a copy of this.

Mr. Blanchette said that he already had a copy of this.

**#10** TO : Board of Selectmen  
FROM: Comcast  
REF : Digital Entertainment

The Chair discussed that Comcast is expanding their services to digital format and that customers will be provided a digital box or adaptor to receive this service, but what the letter doesn't say is that it will cost an additional \$7/month.

**#11** TO : Board of Selectmen  
FROM: Dept. of Transportation  
REF : Small Harbor Improvement Program

The Chair said that this grant did not apply to Eliot.

**8:34 PM**

**#12** TO : Board of Selectmen  
FROM: CMP  
REF : Pole Application – Beech Road

The Road Commissioner has reviewed this application and the Board signed it.

**#13** TO : Board of Selectmen  
FROM: CMP  
REF : Pole Application – Goodwin Road (aka Route 101)

The Road Commissioner has reviewed this application and the Board signed it.

Mr. Moynahan moved, second by Ms. Place, to grant the applications from Central Maine Power to replace one pole on Beech Road and one pole on Goodwin Road (Route 101).

**VOTE**  
**4-0**  
**Chair concurs**

**#14** TO : Board of Selectmen  
FROM: Maine Dept. of Transportation  
REF : Bridge Report

The Chair said this had to do with bridge inspections and asked Mr. Blanchette if there were any municipal bridges the Town needed to be concerned about.

Mr. Blanchette said that the Town of Eliot has one bridge and that is the one we share with South Berwick, off of Old Field Road. He added that he was not able to print their attachments, at first, but was finally able to get the whole things printed and is about 30 pages. He said that he would leave a copy of the full document in the Board's boxes for the weekend. He also said that they did list that bridge as being in poor condition.

**BOARD OF SELECTMEN'S MEETING**  
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The Chair commented that it was known that the bridge needed work, as it was temporarily repaired this past fall by South Berwick.

**8:37 PM**  
**#15**

TO : Board of Selectmen  
FROM: Pat Levesque, Tax Collector  
REF : Unpaid Personal Property Taxes

The Chair said that they knew about Symphonix and, unless they were willing to just make it go away, it would just hang there forever because they cannot find these people.

Mr. Moynahan clarified that the Town attorneys found the principals.

Mr. Blanchette said that, regarding Symphonix, the Town has filed the proper documents but whether or not the Town receives anything is in up in the air.

Mr. Moynahan clarified that it isn't time to make it go away.

Mr. Blanchette agreed. He clarified that Ms. Levesque is concerned about DM Engineering, only. He said that she is asking for that to be abated because the person has left the area.

The Chair discussed that the Town had not been able to reach this person for the past two years, that it would be costly to pursue and the amount is \$172.22.

Mr. Moynahan moved, second by Mr. Fernald, to abate \$172.22 for DM Engineering, Darren Moore, Owner.

**VOTE**

**4-0**

**Chair concurs**

**8:40 PM**

The Chair said that she also talked about a Town-owned property due to foreclosure and asked if this was a bank foreclosure.

Mr. Blanchette clarified that the Town foreclosed on it due to non-payment of taxes. He added that the Town owns this property and they are at a point now that, if the Board wants to try to sell the property, the Board would first have to have the Conservation Commission review the property.

Mr. Moynahan said that he believes Ms. Levesque is also looking to get zero balances on her sheet so that this doesn't keep coming up.

Mr. Blanchette clarified that it can be zeroed out because the Town owns the property.

The Board agreed by consensus to zero out the balance on Map 37 Lot 13-1 and send this to the Conservation Commission for their review.

**8:42 PM**  
**#16**

TO : Board of Selectmen  
FROM: Grant Hirst  
REF : Request to be appointed to Comprehensive Implementation Committee

Mr. Moynahan moved, seconded by Ms. Place, to appoint Grant Hirst as a member of the Comprehensive Plan Implementation Committee.

**VOTE**

**4-0**

**Chair concurs**

**Selectmen's Report:**

There were no Selectmen's reports tonight.

**BOARD OF SELECTMEN'S MEETING**  
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**Other Business as Needed**

Ms. Place said that a citizen was a member of the National Alliance on Mental Illness in Maine and had a brochure she would like to give to Chief Short that describes a free 40-hour course they would give one of his officers to help when interacting with those who are mentally ill.

**Adjourn**

There was a motion and second to adjourn the meeting at 8:45 PM.

**VOTE**

**4-0**

**Chair concurs**

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**DATE**

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**Roberta Place, Secretary**